

SENATE BILL 2352
By Ketron

AN ACT to authorize the City of Columbia to levy and collect an impact fee and to enact the "City of Columbia Impact Fee Act".

WHEREAS, the population of the City of Columbia grew twenty-four percent (24%) from 1980 to 2000; and

WHEREAS, the City of Columbia's population was 33,000 according to the census in 2000 and is currently estimated to be approximately 38,000; and

WHEREAS, the City of Columbia's growth is expected to continue because of I-840 and other factors causing growth to spread southward into Columbia; and

WHEREAS, the City of Columbia's population will exceed 60,000 before 2025 and the need for more dwellings, buildings and facilities will accompany the growth; and

WHEREAS, the City of Columbia's present revenue raising authority is limited and relies heavily on intergovernmental transfers which are not subject to City control and on property taxes which would impose the cost of new growth on existing residents and taxpayers rather than on new residents and businesses who create the demand for additional expenditures; and

WHEREAS, the City of Columbia's present population, employment base, tax base, and budget cannot alone support the additional revenues needed to supply facilities to serve new growth without a substantial increase in the property tax on existing development; and

WHEREAS, the City of Columbia is committed, for the benefit of both present and future City residents, in maintaining a level of public facilities and services commensurate with those presently provided; and

WHEREAS, due to these circumstances, it is necessary and appropriate that the City of Columbia be given authorization to extend its power for raising revenue to enable such City to impose a fair and reasonable share of the costs of public facilities necessitated by new

residential and nonresidential development on such new development so as not to create an unfair and inequitable burden on existing City residents and taxpayers; and

WHEREAS, there is precedent in the State of Tennessee for such additional revenue measures to impose costs on those who benefit the most from improvements and where the result would otherwise be to impose an unfair burden on existing residents and taxpayers; and

WHEREAS, in order to protect the public health, safety and general welfare of the citizens and residents of the City of Columbia, it is necessary that an additional method of financing public improvements for urban type services be granted and that Columbia be authorized to levy impact fees upon new developments, with the fees collected and earmarked for the funding of such services necessitated by the new development; now, therefore, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "City of Columbia Impact Fee Act".

SECTION 2. As used in this act, unless a different meaning clearly appears from the context:

(1) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home.

(2) "Building Permit" means a permit for development issued in Columbia.

(3) "Certificate of Occupancy" means a license for occupancy of a building or structure issued in Columbia; including any temporary documents that may be issued.

(4) "Developer" means any individual, firm, co-partnership, joint venture, association, corporation, estate, business trust, receiver, syndicate, or other group or combination acting as a unit, in the plural as well as the singular number.

(5) "Direct Replacement Structures" means any structure erected to replace a structure damaged by fire or other natural disaster which results in no increase in floor area, dwelling unit number, or other dimension that would otherwise be subject to a pro-rata fee.

(6) "Governing Body" means the City of Columbia, Tennessee.

(7) "Land Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to or increase the floor area of a residential or nonresidential use.

(8) "Nonresidential" means the development of any property for any use other than residential use, except as may be exempted by this act.

(9) "Place of Worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented, or used by persons who do not have tax-exempt status.

(10) "Public Building" means a building owned by the state or any agency thereof, a political subdivision of the state, including, but not necessarily limited to, counties, school districts, and special districts, or the federal government or any agency thereof.

(11) "Public Facilities, Public Improvements" means a physical improvement undertaken by the City, including, but not limited to, the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities, and any other governmental capital improvements benefiting the citizens or utility customers of the city as defined in, section 9-21-105(21)(A) and/or (B).

(12) "Residential" means the development of any property for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this act to authorize the City of Columbia to establish a regulatory procedure or system to collect fees from the developer of any new or expanded land development activity so as to require the developer to share in the burdens of

the growth by paying their pro rata share for the reasonably anticipated expansion cost of public improvements generated by the new land development activity.

SECTION 4. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations, and forms necessary to properly implement, administer, and enforce the provisions of this act.

SECTION 5. This act shall not apply to development of:

- (1) Public buildings;
- (2) Places of worship;
- (3) Direct replacement structures for previously existing structure destroyed by fire or other disasters; but only if replaced within one (1) year of the loss;
- (4) A structure owned by a nonprofit organization that is a qualified 501(c)(3) corporation under the Internal Revenue Code;

SECTION 6. The City may by ordinance impose an impact fee if it can show reasonable connection between the need for the Public Facilities and anticipated new development. The Public Facilities may have been constructed in the past with excess capacity in anticipation of future development.

SECTION 7. The impact fee ordinance shall include a schedule of impact fees specifying the fee for each public facility for various land uses per unit of development.

SECTION 8. The impact fee may not exceed a proportionate share of the cost of the public improvements. The impact of such fees should not be to charge new development for a higher level of service than is currently provided, or that will with reasonable certainty be provided in the future, to existing development.

SECTION 9. The data, analysis and calculations of the proportionate share of the cost attributable to various land use categories shall be documented in a report made available to the public prior to the adoption of the ordinance.

SECTION 10. The impact fee ordinance shall include a provision for credits against the payment of impact fees. In the calculation of an impact fee for a development project, credit shall be given for the present value of any construction of Public Improvements or contribution or dedication of land or money required or accepted by a local government from a developer or

the developer's predecessor in title or interest on Public Improvements for which the impact fee is being collected.

SECTION 11. The governing body shall provide a schedule and method for the payment of the impact fee in a manner appropriate to the particular circumstances of the proposed new development. The ordinance may require the payment of a fee before a building permit is issued or, if a building permit is not required, at the time of issuance of a certificate of occupancy by the city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy.

SECTION 12. The impact fees collected by the City of Columbia pursuant to this act shall be kept in a separate fund from other revenue of the government entity. Funds collected by impact fees shall be used for the acquisition, expansion, and development of the capital or public improvements for which they were collected.

SECTION 13. The provisions of this act shall in no manner repeal, modify, or interfere with the operation of any general abutting property law or any special or local assessment or abutting property law enacted for the benefit of the City of Columbia. This Act shall be deemed to create an additional and alternative method for the City of Columbia to collect fees for the purpose of defraying the costs of capital or public improvements.

SECTION 14. If any word, phrase, sentence, paragraph, or other provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other word, phrase, paragraph, or other provision or application of this Act which can be given effect without the invalid provision or application, and to that end the provisions this Act are declared to be severable.

SECTION 15. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the City of Columbia. Its approval or nonapproval shall be proclaimed by the presiding officer of the governing body and certified by said officer to the Secretary of State.

SECTION 16. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 15.

